

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C.

**ORIGINAL**

In the Matter of

Creation of a Low  
Power Radio Service

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OFFICE OF THE SECRETARY

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MM Docket No. 99-25

RM-9208

RM-9242

To: The Commission

**JOINT REPLY COMMENTS OF THE NAMED  
STATE BROADCASTERS ASSOCIATIONS**

The Alabama Broadcasters Association, the Alaska Broadcasters Association, the Arizona Broadcasters Association, the California Broadcasters Association, the Colorado Broadcasters Association, the Connecticut Broadcasters Association, the Florida Association of Broadcasters, the Georgia Association of Broadcasters, the Hawaii Association of Broadcasters, the Idaho State Broadcasters Association, the Illinois Broadcasters Association, the Indiana Broadcasters Association, the Iowa Broadcasters Association, the Kansas Association of Broadcasters, the Kentucky Broadcasters Association, the Louisiana Broadcasters Association, the Maine Association of Broadcasters, the Maryland/DC/Delaware Broadcasters Association, the Massachusetts Broadcasters Association, the Michigan Association of Broadcasters, the Minnesota Broadcasters Association, the Mississippi Association of Broadcasters, the Missouri Broadcasters Association, the Montana Broadcasters Association, the Nebraska Broadcasters Association, the Nevada Broadcasters Association, the New Hampshire Association of

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Broadcasters, the New York State Broadcasters Association, the North Dakota Broadcasters Association, the Ohio Association of Broadcasters, the Oklahoma Association of Broadcasters, the Oregon Association of Broadcasters, the Pennsylvania Association of Broadcasters, the Radio Broadcasters Association of Puerto Rico, the Rhode Island Broadcasters Association, the South Carolina Broadcasters Association, the South Dakota Broadcasters Association, the Tennessee Association of Broadcasters, the Texas Association of Broadcasters, the Utah Broadcasters Association, the Vermont Association of Broadcasters, the Washington State Association of Broadcasters, the West Virginia Broadcasters Association, the Wisconsin Broadcasters Association, and the Wyoming Association of Broadcasters (collectively, the "Associations"), by their attorneys, and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, hereby submit their joint reply in response to the comments filed in the above-captioned *Notice of Proposed Rule Making* (the "*NPRM*"), MM Docket No. 99-25, released February 3, 1999. By Orders released March 19, 1999, May 20, 1999, and August 31, 1999, the period for reply comments in this proceeding was subsequently extended to September 17, 1999; therefore, these comments are timely filed.

## **I. INTRODUCTION AND SUMMARY**

Based on the technical studies that have been filed thus far in response to the Commission's Notice of Proposed Rule Making, it is clear that the creation of a low power FM radio service will have a substantial, immediate, and long-term negative impact on the FM band and the public that it serves. As demonstrated by the receiver studies and the extensive analysis

conducted by the National Association of Broadcasters (“NAB”),<sup>1</sup> the problem of interference is real, further heavily tipping the scales against this new service, the broad need for which has not been demonstrated. The Commission must acknowledge the real world effects that the proposed LPFM service will have on the public and the broadcasting industry. Accordingly, the Commission must refrain from taking any action that could undermine the current level of spectrum integrity or hinder broadcasters from providing digital audio radio service utilizing “in-band, on-channel” (IBOC) technology.

## II. DISCUSSION

When the Commission initiated this rule making it was apparent that substantial research was needed before the Commission could make a carefully reasoned and informed decision on the proposed low power service. Although the Commission stated in the NPRM that it believed that the effects of “interference might well be insignificant,”<sup>2</sup> it was clear that important questions existed regarding the impact of low power on the FM band. Indeed, the Commission released its own interference study shortly before the deadline for submitting comments which was entitled “Interim Report” and admitted that:

Because of the need to develop some information quickly, this phase of the study is limited in scope to issues of second and third adjacent channel interference performance of analog FM receivers with respect to analog FM interferers. Additionally the study was limited in size to a fairly small sample of 21 receivers. Follow-on work is anticipated to expand the study sample as well as to broaden

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<sup>1</sup> Comments, MM Docket No. 99-25, filed by National Association of Broadcasters on August 2, 1999.

<sup>2</sup> NPRM at ¶45.

the scope to include digital interferer issues and investigation of the effectiveness of additional proposed methods to mitigate interference.<sup>3</sup>

Although a number of commenters, as well as the Commission itself, are continuing to conduct technical studies and gather information, the Commission now has before it a substantial record with well over 1,600 comments containing receiver studies, technical analyses, and first-hand anecdotal accounts which provide overwhelming evidence that the creation of a low power service will undermine the FM band by causing harmful interference. Faced with this compelling body of evidence refuting the efficacy of a low power service, the Commission must uphold its mandate to regulate in the public interest and refrain from pursuing LPFM.

In particular, the NAB's comments are a formidable resource of technical information, detailing the impact of LPFM, the potential interference that low power will cause to the FM band, and the inability of everyday receivers to filter out interference. The NAB concludes that the second and third adjacent channel allocation standards should not be modified and that squeezing numerous low power stations into the already crowded spectrum will cause substantial interference to millions of American radio listeners. The NAB's extensive testing demonstrates that FM receivers are not as vastly improved as the Commission had assumed, and that second and third adjacent channel protections are essential to the reception of FM signals.<sup>4</sup>

In addition, the Consumer Electronics Manufacturers Association ("CEMA"), with the support of National Public Radio and the Corporation of Public Broadcasting, also performed a

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<sup>3</sup> Second and Third Adjacent Channel Interference Study of FM Broadcast Receivers, FCC OET report, July 19, 1999.

<sup>4</sup> NAB Comments at pp. 28-38.

receiver interference test in response to the Commission's NPRM.<sup>5</sup> Like the NAB's studies, the results of CEMA's tests support the notion that second and third adjacent channel protections cannot be eliminated without causing harmful interference to existing broadcasters. CEMA's comments summarizing the findings of its study stated:

Specifically, CEMA strongly disagrees with the Commission's tentative conclusion not to include 2nd- and 3rd- adjacent channel and Intermediate Frequency- related protection requirements for any LPFM service, because the absence of these requirements is likely to result in significant interference to current and future FM service and threaten the development and deployment of future terrestrial digital audio radio services.<sup>6</sup>

Based on the various technical studies which have been submitted in the rule making, it is clear that LPFM will cause interference to existing FM stations and that the second and third adjacent channel protections cannot be eliminated without serious adverse consequences. The inability to remove the second and third adjacent channel protections completely undermines the feasibility of a low power FM service. The Commission acknowledged in the NPRM that second and third adjacent channel protections would "limit substantially the number of channels available for low power radio generally and could preclude altogether the introduction of LPFM service in mid-sized and large cities."<sup>7</sup> According to the Commission's analysis contained in the NPRM, only three LP1000 stations and seventeen LP100 stations could be added in the twenty

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<sup>5</sup> Comments, MM Docket 99-25, Consumer Electronics Manufacturers Association filed August 2, 1999.

<sup>6</sup> Id at 3.

<sup>7</sup> NPRM at ¶42. The NPRM went on to state that "[r]elaxed interference standards for low power FM stations may be the only way to 'find' sufficient spectrum in medium and larger markets to create any new viable service of 100 watts or more." Id. at ¶44.

largest markets with the existing interference protections. In all markets combined, 33 LP1000 and 71 LP100 stations could be added while preserving full interference protections, as well as protecting translators.<sup>8</sup> Given that the number of low power stations that could be added while maintaining the second and third adjacent channel protections is minuscule, LPFM does not warrant the amount of time, money, and effort necessary to institute and regulate such a service.

Furthermore, the provision of digital audio radio using IBOC technology should take precedence over the creation of a new, and problematic, low power service. CEMA's comments address this concern, stating: "CEMA's testing shows that digital audio radio service could face interference from 2nd adjacent channels. Given this dim result, it is CEMA's view that the future development of terrestrial digital audio radio would be unduly limited by the addition of numerous new facilities operating on the FM band."<sup>9</sup> Similarly, the comments filed by NAB reiterate that because "the Commission has not yet begun a proceeding to address radio broadcasting's conversion to digital, there is no record upon which commenters can base any judgments about the adjacent channel protection criteria that would be necessary in an IBOC environment."<sup>10</sup> Consequently, the showing of detrimental interference when the second and third adjacent channel protections are removed further supports the need for the Commission to implement the transition to digital radio before considering LPFM.

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<sup>8</sup> Appendix D, NPRM.

<sup>9</sup> CEMA Comments at p. 6.

<sup>10</sup> NAB Comments at p. 47.

Additionally, beyond the technical problems elucidated by these studies, LPFM still faces the administrative and economic hurdles articulated in the Associations' initial comments. For all of these reasons, the creation of a low power service is not in the public interest and the Commission's responsibility as manager of the radio spectrum requires that it abandon the pursuit of low power FM.

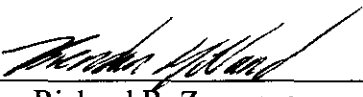
### **III. CONCLUSION**

The authorization of a low power service within the existing FM band will, at the least, create harmful interference in the FM band and hinder the transition to terrestrial digital radio. Accordingly, the Associations request that the Commission NOT create a low power FM service.

Respectfully submitted,

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Dated: September 17, 1999



**CERTIFICATE OF SERVICE**

I, Marcella Schiappacasse, a secretary with the law firm of Fisher Wayland Cooper Leader & Zaragoza, L.L.P., do hereby certify that a copy of the foregoing ***“JOINT REPLY COMMENTS OF THE NAMED STATE BROADCASTERS ASSOCIATIONS”*** was this 17<sup>th</sup> day of September, 1999 served by mail on:

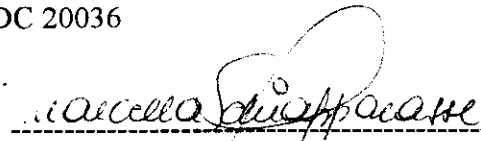
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